



**THE ATTORNEY GENERAL  
OF TEXAS**

GROVER SELLERS

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ATTORNEY GENERAL

AUSTIN 11, TEXAS

Honorable J. H. O'Neill  
County Attorney  
Swisher County  
Tulia, Texas

Dear Mr. O'Neill:

Opinion No. O-6002

Re: Does County Commissioner of  
Swisher County have to file item-  
ized verified account each month  
in order to be allowed traveling  
expenses under Art. 2350(7), V.C.S.

We have received your recent communication in which you submit the above question, together with the additional queries as to whether such traveling expenses are allowable now for past months, during which no itemized verified accounts were filed, and whether or not the Commissioners' Court may legally pass a general order allowing the flat sum of Twenty-five (\$25.00) Dollars to each commissioner each month for such traveling expenses.

As Swisher County has a population of 6,528, according to the 1940 Federal Census, the provisions of Article 2350(7), V.A.C.S., are applicable. Said Article reads as follows: "In aid of counties of this State having a population of less than twenty-five thousand two hundred (25,200), according to the last preceding Federal Census, the Commissioners' Court of such counties is hereby authorized to allow the commissioners the sum of not more than Twenty-five (\$25.00) Dollars per month for traveling expenses while on official business in said counties."

We believe the above article contemplates only such traveling expenses as are necessarily and actually expended by such commissioner while he is on official business in said county. (See our Opinions Nos. O-5598 and O-5615, copies of same herewith enclosed).

Such Article does not expressly prescribe any formal requisites of a claim for such traveling expenses, but we believe it contemplates the filing of an itemized account as in other claims in order that the Commissioners' Court may properly audit and determine the validity thereof.

Article 2350(6) V.A.C.S., which specifically provides for a sworn monthly account for certain traveling expenses of a county commissioner, does not apply to Swisher County and it cannot be used to control the application of Art. 2350(7), supra, in any respect.

As said Art. 2350(7) V.A.C.S. ( Senate Bill 319, Chapter 362, Acts of the 48th Leg., 1943), became effective as a law ninety full days after May 11, 1943, date of adjournment, we see no reason why such actual traveling expenses, incurred since the effective date of said Article and uncollected should not now be allowable.

Said Art. 2350(7) does not authorize the Commissioners' Court to pass a general order allowing the flat sum of Twenty-five Dollars to each commissioner each month for traveling expenses. Such sum is already available to each commissioner by virtue of the law provided he actually incurs such amount as contemplated by statute. He cannot be compensated for more than such amount incurred in any one month but may incur less, and the actual amount incurred is the criterion which the Court must go by in issuing its order for compensation. (See Opinion No. 0-5633, a copy of which is enclosed herewith.)

Trusting the above fully answers your questions, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By /s/ Robert L. Lattimore, Jr.

Robert L. Lattimore, Jr.  
Assistant

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APPROVED JUNE 27, 1944  
/s/ Geo. P. Blackburn  
(Acting)  
ATTORNEY GENERAL OF TEXAS

APPROVED  
Opinion Committee  
By B W B  
Chairman